

United States Senate

WASHINGTON, DC 20510

August 13, 2007

The Honorable Edward M. Kennedy
Chairman
Committee on Health, Education,
Labor, and Pensions
U.S. Senate
Washington, D.C. 20510

The Honorable Michael B. Enzi
Ranking Member
Committee on Health, Education,
Labor, and Pensions
U.S. Senate
Washington, D.C. 20510

Dear Chairman Kennedy and Ranking Member Enzi:

As you work to write the reauthorization of the Elementary and Secondary Education Act/No Child Left Behind, we write to ask that you consider the following reforms that address a number of concerns we have heard from our constituents during the past five years of NCLB's implementation.

Promoting fair and reliable assessments – NCLB mandated annual assessments in reading and math in grades 3-8 and once in high school. We have heard from a number of educators in our states who have expressed concerns about the long-term effects of these federal testing mandates and the concern that these annual assessments have narrowed the curriculum in many schools and pressured schools, districts, and states to redirect critical resources to test preparation. We support maintaining local control over decisions affecting our children's day-to-day classroom experiences, including the frequency and use of standardized testing. While we agree that there should be a strong accountability system in place to ensure that public school students are making progress, we oppose over-testing students in our public schools.

We have heard a lot about the annual tests from educators in our states and the response has been almost universally negative. The federal government should leave decisions about the frequency of using high quality assessments to measure and increase student academic achievement up to the states and local school districts that bear the responsibility for educating our children. Every state and every school district is different and a uniform testing policy may not be the best approach. A more flexible approach will provide states with an incentive to implement more creative assessment models that promote the inclusion of multiple measures of assessment into their accountability systems and also encourage increased attention to other important academic subjects, including social sciences, the arts, music, and physical education.

Fair accountability models – The current one-size-fits-all adequate yearly progress (AYP) model has created a number of implementation problems throughout the country. We urge you to include flexibility for states to transition to growth models in the reauthorized ESEA. As you know, a growth model system would provide schools with the ability to track individual student progress from year to year. Growth models can provide a more accurate indication of student achievement than a strict status model and will allow schools to better take into consideration the academic needs of all students, including students with disabilities and English language learners.

We have heard from a number of teachers, parents, and school administrators that the current AYP structure has caused schools to focus on the students who are closest to achieving the cut score on the tests so as to continue to boost the number of kids passing the test each year. As a result, parents are concerned that the lowest-achieving students not yet proficient and the highest-performing students who are already proficient are being ignored in the effort to meet AYP each year. Allowing states and local districts to implement growth models would permit schools to track the progress of all students in order to ensure that every student, regardless of his or her current academic level, continues to make academic progress.

Improving the peer review process – We also ask that you reform the peer review process in the ESEA reauthorization bill to add more transparency and consistency to the peer review process. As you know, states are required to submit their state plans for approval through the peer review process and we have heard concerns from our states that they do not receive consistent or timely information from the Department of Education during peer review. States have also voiced concern about their inability to speak directly with the peer reviewers during the peer review process in order to clarify the reviewers' comments made on their state plans.

We encourage you to add language to the reauthorization bill that will ensure the peer review teams contain balanced representation from state education agencies, local education agencies, and practicing educators. Additionally, the reauthorization bill should include language that requires the Secretary of Education to provide consistency in peer review decisions among the states and require independent evaluations to be done every two years to ensure consistency of the approval and denial decisions by the Department of Education from state to state.

Resources for states and local districts to develop innovative assessments – A number of constituents have voiced concerns about the quality of high-stakes standardized testing. All too often, these tests measure lower-level thinking skills such as recalling information and summarizing ideas. These lower-level questions are cheaper and easier to score, but they do not necessarily require students to demonstrate skills that are essential in the 21st century, including the ability to analyze new situations, compare different ideas, evaluate issues, and think critically.

As you know, educators and education researchers have developed more robust assessments including classroom-designed formative assessments, portfolio assessments, performance-based measures, and other innovative assessments. Some schools, local districts, and states are already implementing these innovative assessments to varying degrees and we urge you to include funding for the further development of such assessments in the reauthorization of ESEA. Resources are needed to help states and local districts to create these assessments, but also to train teachers on how to develop and utilize these assessments in the classroom. We believe these innovative assessments provide a richer educational experience for students and allow students to better demonstrate their ability to think critically. We also encourage you to provide flexibility to allow states and local districts to fold these innovative assessments into their accountability systems either in conjunction with statewide standardized testing or as an alternative to statewide standardized testing.

Building state and local capacity – We also urge you to include additional resources to help states and local districts build their technical capacity and ability to comply with increased accountability requirements. States and local districts are going to have to secure additional resources in order to implement growth models or utilize multiple forms of assessments and we believe the federal government should do its part to assist states in accessing these resources. We support funding for competitive grants to create and maintain state and local education databases, implement privacy protections for state and local education databases, disaggregate data as required under NCLB, train staff in how to use multiple measures of student achievement in state accountability systems, and provide additional professional development for state education agency and local education agency staff. We have heard from a number of administrators at the state and local level who are diligently trying to comply with increasing federal, state, and local accountability requirements and decreasing federal, state, and local education budgets. Providing additional, flexible grant resources will help states build state and local infrastructure and will help encourage states to move to more innovative assessment systems that do not rely only on high-stakes testing to make decisions about students and schools.

Bringing teachers to the table – The reauthorized ESEA should include more opportunities for teachers who are on the front lines of our classrooms to offer their feedback on how the federal education law is being implemented throughout the country. We ask that you include a provision in the reauthorization bill that would create an advisory committee of high-quality teachers to monitor the effects of ESEA in classrooms and present their findings to the Congress and the Department of Education on an annual basis. We believe the teachers serving on such a committee should represent varied geographic regions of the country as well as represent different subject areas and different levels of schooling, including elementary, middle, and high school.

We have found our constituent feedback from educators regarding the effects of NCLB on day-to-day classroom activities to be invaluable over the past five years. Every state and school district is different and creating such a committee of teachers from various parts of the country could ensure that a diversity of viewpoints regarding the law's implementation is presented to policymakers on a yearly basis.

Supporting school improvement and addressing the whole child – Over the past five years, we have heard a number of concerns from educators and administrators about the existing sanctions structure in NCLB. We are concerned that the federal sanctions structure is more focused on taking resources away from schools than on targeting resources toward research-based strategies for improvement. Additionally, we have heard concerns that the sanctions in the early years of school improvement status, including the transfer out and supplemental educational services provisions are not particularly well suited to the needs of rural schools in our states.

We are pleased the Congress appropriated funding for the school improvement grants both in the FY07 continuing resolution and in the pending FY08 Labor-HHS-Education appropriations bills. However, increased funding alone will not correct the implementation problems with the sanctions. We ask that the Committee take steps to revamp the sanctions structure to provide

local districts and states more flexibility to address the unique needs their schools are facing in the early years of school improvement. We believe increased flexibility in the early years of school improvement can help schools and local districts address academic needs related to the education of the whole child, including school-based counseling and mental health services, nutritional services, and parental and family supportive services.

We have supported various programs run through the Department of Agriculture, such as the Fresh Fruit and Vegetable Program, to provide schools and families with access to nutritious healthy food. We have heard from numerous teachers in our states about the positive impact of good nutrition on their students' health, classroom behavior, and overall attitude. While such programs are a great start to ensuring good nutrition for our children, they are not enough. We should also look for ways to integrate food and healthy eating habits into the school day. Whether it is through serving breakfast at the beginning of the day, farm-to-cafeteria programs, field trips to local farms or school gardens, many local schools and schools systems have exciting programs that we should build on. In order for Congress to provide real support for school improvement, Congress needs to explore the impact these programs can have on academic outcomes and provide more programming addressing the needs of the whole child in the reauthorized ESEA.

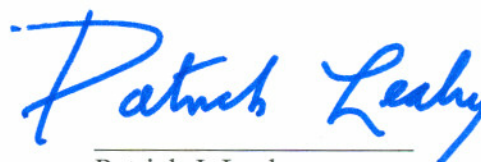
Reexamining the 2014 deadline – A number of prominent education researchers and advocates have voiced concern about the likelihood that many public schools may not be able to meet the goal of one hundred percent proficiency by the year 2014. We urge the Committee to reexamine the feasibility of the 2014 deadline. At the very least, the Committee should include a trigger in the reauthorization that waives the 2014 deadline as long as Title I funding does not meet authorized levels.

The Elementary and Secondary Education Act of 1965 is the key federal law impacting our nation's schools and we strongly support the law's commitment to improving the quality of education provided to our nation's disadvantaged students. We look forward to working with you on an ESEA reauthorization that promotes state and local control over day-to-day classroom decisions, while providing fair and reasonable accountability mechanisms to ensure that federal, state, and local governments work together to close the achievement gap among our nation's students.

Sincerely,



Russell D. Feingold
United States Senator



Patrick J. Leahy
United States Senator